

## **REMARKS**

The Office Action dated March 03, 2010 contained the following objections:

1. Specification under 35 U.S.C. 132(a) as containing new matter of the "direct" attachment of the second (horizontal) plate member 64 to the first (vertical) plate member 61 and explanation of "providing added strength between the first plate member and the second plate member".

2. Drawings and disclosure because reference numeral 64 directed to the plate portion is a duplicate of the reference numeral 64 directed to second plate member.

The Office Action dated March 03, 2010 also contained the following rejections:

1. Claims 1, 2 and 5 are rejected under 35 U.S.C. 112, first paragraph.

2. Claims 6, 10, 23-25 and 28 are rejected under 35 U.S.C. 112, second paragraph.

3. Claims 1, 2, 5-6, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6792704 to Johnson in view of US Patent 6116385 to Ring.

4. Claims 1, 2, 5-6, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Ring and further in view of US Patent 6142480 to Streitman et al.

Applicant thanks the Examiner for a telephonic interview on May 25, 2010 to review the merits of this Office Action.

Regarding the above-referenced objections, drawings (FIGS. 2 and 3) and disclosure have been amended to replace first plate portion 64 with 65A and the second plate portion 65 with 65B.

Claims 6, 10, and 28 have been amended to correct deficiencies related to 35 U.S.C. 112, second paragraph.

Therefore, it is respectfully requested that these objections are to be withdrawn.

Regarding new matter of the "direct" attachment of the second (horizontal) plate member 64 to the first (vertical) plate member 61, Alexander Pokot, Applicant's representative, pointed out during telephonic interview that the second (horizontal) plate member 64 is clearly shown in FIG. 2 as essentially being an extension (see radius shown next to numeral reference 64) of the first (vertical) plate member 61. It was pointed out further that free edge of the second (horizontal) plate member 64 is shown in FIG. 2 as a continuous edge extending past the longitudinal edge of the beam member 4. FIG. 3 shows the opposed side of the first plate member 61 from the side that is shown in FIG. 2. Likewise, it is clearly shown that plate member 64 is directly attached to the first plate member 61. Finally, FIG. 1 contains another angled view of the first and second plate members 61 and 64 respectively. Thus,

FIGS. 1-3 provide clear support for limitation "direct". As best understood, agreement has been reached during the telephonic interview that the second (horizontal) plate member 64 is "directly" attached to the first (vertical) plate member 61. FIG. 1 is also submitted herewith for clarity.

Regarding new matter of the "providing added strength between the first plate member and the second plate member", Applicant respectfully points out that this limitation can be found in the originally filed claim 2 that constitutes part of the disclosure.

Accordingly, it is believed that the amendment filed on 2/24/10 does not contain new matter.

Furthermore, the Examiner is respectfully requested to withdraw the rejection of claims 1, 2 and 5 under 35 U.S.C. 112, first paragraph.

Next during the telephonic interview, the Examiner clarified that protrusions next to reference numeral 24 in FIG. 2 of Johnson read on the plate portions 65A and 65B of the claimed invention of claim 1. Applicant agrees.

However, regarding the rejection of claim 1 under 35 U.S.C. 103(a) as being unpatentable over US Patent 6792704 to Johnson in view of US Patent 6116385 to Ring. Applicant respectfully notes

that the claimed invention if claim 1 is not rendered *prima facie* case obvious by the proposed combination as construed by the Examiner. Specifically, the Examiner stated that element 18(a) of Johnson comprises the "first plate member" and that element 20 of Johnson comprises the "second plate member".

However, claim 1 recites in paragraph (b) that **"second plate member directly attached to said first plate member at a bottom edge** thereof and extending substantially perpendicular to said first substantially planar surface of said first plate member for shielding at least a first portion of the exterior peripheral surface of the air spring actuator from said detrimental extraneous foreign material" and further recites in paragraph (e) "a pair of **plate portions disposed** planar with said first plate member **adjacent a top edge thereof**, each of said pair of plate portions protruding outwardly from a respective side edge of said first plate member" (emphasis added). It must be noted that "top" and "bottom" edges clearly define a pair of edges spaced apart in a vertical plane.

Now in reference to FIG. 2 of Johnson (it has been admitted on record that Ring is only used in this combination to show the environment and does not contribute structurally), if the plate portions (next to reference numerals 24) are disposed adjacent the "top edge" of first plate member 18(a) than the second plate member 20 is not attached to the "bottom edge" but is disposed at

the side edge of the first plate member 18(a). The "bottom edge" of the claimed invention in reference to FIGS. 1-2 of Johnson does not have any members extending therefrom to cover a portion of the peripheral surface of the air spring.

Thus, the proposed combination teaches away from the claimed invention of claim 1, does not teach all of the claimed limitations and operates entirely different.

Claims 2 and 5 depend back on claim 1.

Regarding the rejection of claim 6, such claim has been amended, as agreed during the telephonic interview, to recite in paragraph (b) "...said proximal end disposed transverse to a length of said each of said pair of elongated members,..." The support for this limitation is clearly shown in FIGS. 2-5. No new matter has been entered. As agreed during the telephonic interview, the proximal end of elements 20 of Johnson is not disposed on the surface of the plate member 18(a).

Claims 23-25 depend back on claim 6.

Furthermore, regarding the rejection of claims 24-25, Applicant fails to find structure in Johnson representing the tab 102 and aperture 104 of claim 24 as well as greater width of elongated members 81A and 81B of claim 25, as members 20 and 18B of Johnson are clearly shown in FIG. 2 as being of the same width.

Accordingly, the Examiner is respectfully requested to withdraw the above referenced rejections of claims 1, 2, 5-6, and 23-25 under

35 U.S.C. 103(a) as being unpatentable over US Patent 6792704 to Johnson in view of US Patent 6116385 to Ring and rejection of claims 1, 2, 5-6, and 23-25 under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Ring and further in view of US Patent 6142480 to Streitman et al.

### **CONCLUSIONS**

In view of the above amendments to the drawings, disclosure, claims and the remarks associated therewith, Applicant believes that Independent Claims 1 and 6 are in a condition for allowance and such allowance by the Examiner is respectfully requested. Since it is believed that Independent Claims 1 and 6 are in condition for allowance, their dependent claims further providing limitations are also in a condition for allowance.

Furthermore, given allowance of claims 9, 11-13, 16-18 and 26-27 and amendments to claims 10 and 28 placing these claims into allowable state, it is respectfully requested that this application is to be passed to issue.

In the event the Examiner has difficulties with the amendment, the Examiner is invited to contact the undersigned agent by telephone at 847-687-8804 to resolve any remaining questions or issues by interview and/or by Examiner's amendment

as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,



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